

UNITED STATES OF AMERICA

Before the

COMMODITY FUTURES TRADING COMMISSION

In the Matter of:

David G. Sklena
9237 Keeler Avenue
Skokie, Illinois 60076

Registrant.

CFTC Docket No. SD 09-01

NOTICE OF INTENT TO SUSPEND OR
MODIFY REGISTRATION PURSUANT TO
SECTION 8a(11) OF THE COMMODITY
EXCHANGE ACT, AS AMENDED

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I.

The Commodity Futures Trading Commission ("Commission") has received information from its staff that tends to show, and the Commission's Division of Enforcement ("Division") alleges and is prepared to prove, that:

1. David G. Sklena ("Sklena" or "Registrant") resides at 9237 Keeler Avenue, Skokie, Illinois 60076.

2. Since October 1, 1987, Sklena has been registered with the Commodity Futures Trading Commission ("Commission") as a floor broker, pursuant to Sections 4e and 4f of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §§ 6e and 6f (2006).

3. In February 2003, the Chicago Board of Trade's ("CBOT") Floor Governors Committee found that Sklena failed to execute orders in the open market in violation of CBOT Rule 332.00 and CBOT Regulation 332.01; engaged in acts detrimental to the interests and welfare of the Association in violation of CBOT Rule 504.00; failed to properly confirm and record trades in violation of CBOT Rule 350.07; and executed futures contracts not by open outcry or in the open market in violation of CBOT Rule 332.00 and CBOT Regulation 332.01. The CBOT fined Sklena \$25,000 and suspended him from trading for 15 business days.

4. In March 2007, the CBOT's Hearing Committee found that Sklena (a) participated in noncompetitive execution of Five Year Treasury Note ("Five Year Note") futures contracts not by open outcry or in the open market in violation of CBOT Rule 332.00 and CBOT Regulation 332.01; (b) bought and sold Five Year Note futures contracts as an accommodation in violation of CBOT Regulation 350.05(i); (c) engaged in inequitable proceedings in violation of CBOT Rule 500.00; and (d) engaged in acts detrimental to the interests and welfare of the Association in violation of CBOT Rule 504.00, for his April 2nd trading of 2,274 June 2004 Five

Year Note futures contracts opposite another floor broker. The CBOT fined Sklena \$125,000 and suspended from trading for 75 business days.

5. On January 9, 2008, the Commission filed a federal civil injunctive action against Sklena alleging that he committed illegal trade practices in the Five Year Note pit by noncompetitively trading 2,274 June 2004 Five Year Note futures contracts opposite another floor broker. *CFTC v. Sklena, et al.*, No. 08C0192 (N.D. Ill. filed Jan. 9, 2008). The Commission's complaint alleges that Sklena: willfully aided and abetted another floor broker in cheating, defrauding and deceiving customers in connection with the trading of commodity futures contract in violation of Sections 4b(a)(2)(i) and (iii), 7 U.S.C. §§ 6b(a)(2)(i) and (iii); willfully aided and abetted the bucketing of customer orders in violation of Section 4b(a)(2)(iv) of the Act; 7 U.S.C. § 6b(a)(2)(iv); entered into accommodation trades in violation of Section 4c(a) of the Act, 7 U.S.C. § 6c(a); and failed to execute trades openly and competitively in violation of Commission Regulation 1.38(a), 17 C.F.R. § 1.38(a).

6. On or about February 15, 2008, Sklena entered into a Consent Order of Preliminary Injunction and Other Equitable Relief in the Commission enforcement action, wherein he consented to be restrained and enjoined from directly or indirectly:

- A. Engaging in, controlling, or directing the trading of any commodity futures or options account for or on behalf of any other person or entity, whether by power of attorney or otherwise;
- B. Soliciting, receiving or accepting any funds from any person in connection with the purchase or sale of any commodity futures or options and/or using any funds received from third parties for the purpose of trading commodity futures or options; and
- C. Trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29); entering into any commodity futures or options transaction for [his] personal account or for any account in which he has a direct or indirect interest unless his activities are restricted to electronic trading off of the trading floor, and are subject to a supervision agreement.

7. On or about March 31, 2009, the United States Attorney for the Northern District of Illinois filed an indictment, entitled *United States v. Edward C. Sarvey and David G. Sklena*, 09 CR 302 (N.D. IL.), charging Sklena with eleven federal felonies, including: 18 U.S.C. § 1343 (wire fraud); 7 U.S.C. §§ 6b(a)(1)(i) and 13(a)(2) (commodity fraud); and 7 U.S.C. § 13(a)(5) (noncompetitive futures contract trading).

8. The indictment charges Sklena with committing or participating in crimes involving violations of federal law that reflect on his honesty or his fitness to act as a fiduciary. The crimes charged in the indictment are also punishable by imprisonment for a term exceeding one year.

9. Sklena's continued registration may pose a threat to the public interest or may threaten to impair public confidence in markets regulated by the Commission. Accordingly, Sklena is subject to having his registration suspended or modified under Section 8a(11)(A) of the Act.

II.

Pursuant to its responsibilities under the Act and by reason of the foregoing allegations by the Division, the Commission deems it necessary and appropriate that public proceedings be conducted in accordance with the provisions of Commission Regulation 3.56, 17 C.F.R. § 3.56 (2009), to determine whether Sklena is subject to modification or suspension of his registration status as alleged and, if so, whether his current registration should be modified or suspended.

III.

WHEREFORE, IT IS HEREBY ORDERED that this Notice of Intent to Suspend or Modify ("Notice") be filed and that a proceeding be conducted in accordance with the provisions of Commission Regulation 3.56 to determine whether the Registrant David G. Sklena is subject to suspension or modification of his registration, and if so, whether his current registration should be suspended or modified.

Pursuant to Commission Regulation 3.56(b)(1), Registrant may submit a written response to the Proceedings Clerk within twenty (20) days after service, and shall serve two copies of such written submission and any documents filed in this proceeding upon Rosemary Hollinger, Associate Director and Regional Counsel, and Camille M. Arnold, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 West Monroe Street, Suite 1100, Chicago, Illinois, 60661.

Pursuant to Commission Regulation 3.56(b)(2), Registrant may also request an oral hearing.

IT IS FURTHER ORDERED that this Notice shall be served on Registrant personally or by registered or certified mail forthwith.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of the investigative or prosecutorial functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon this matter except as witness or counsel in proceedings held pursuant to notice.

Dated: August 7, 2009

By the Commission.



David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission